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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 1186

MESCALERO APACHE TRIBE, an Indian Tribe, duly organized under the laws of the United States of America; EUGENE KLINEKOLE; and CHARLES SMITH, JR.,

Petitioners,

—v.—

ROGERS C.B. MORTON, Secretary of the Interior, Washington, D. C.; U.S. DEPARTMENT OF INTERIOR, Washington, D. C.; LOUIS R. BRUCE, Commissioner, Bureau of Indian Affairs, Washington, D. C.; and E. M. DAVIDSON, Area Personnel Officer, Albuquerque Area, Bureau of Indian Affairs, Albuquerque, New Mexico,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

REPLY BRIEF FOR PETITIONERS

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Respondents' Brief in Opposition raises two points that require answering:

1. Respondents state that the two individual petitioners each had less than three years' service with the Bureau of Indian Affairs (p. 3). This is not correct. One of the petitioners was first hired by the Bureau in 1964 (Petition for Writ of Certiorari, p. 4). Up to the time of his dismissal in June 1969 he had completed more than four years' service

with the Bureau. This service was not continuous, however, and to obtain career status with the Bureau, three years of continuous service is required. Respondents' statement on this matter simply serves to emphasize the point made in the Petition, that under the existing manner in which the Indian Preference Laws are administered by the Bureau during reductions-in-force, it is difficult for Indian employees to acquire career status. This underscores the need for the Court to review this case, and to determine the way in which the Indian Preference Laws should be administered.

2. The Brief in Opposition suggests that if Petitioners' interpretation of the Indian Preference Laws is correct, non-Indians "could be offered no job security of any kind" (p. 4). This, of course, is simply not true. Non-Indian employees of the Bureau would have preference over all other non-Indian employees who were below them on the retention register. Almost 50 percent of the Bureau's employees are non-Indian (Petition for Writ of Certiorari, p. 15).

Respectfully submitted,

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